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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/713,644	11/13/2003	Timothy P. Duggan	1062/E07	1645
2101	7590	10/26/2005	EXAMINER	
BROMBERG & SUNSTEIN LLP			SCHNEIDER, CRAIG M	
125 SUMMER STREET			ART UNIT	
BOSTON, MA 02110-1618			PAPER NUMBER	

3753

DATE MAILED: 10/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/713,644	<b>Applicant(s)</b> DUGGAN ET AL.	
	<b>Examiner</b> Craig M. Schneider	<b>Art Unit</b> 3753	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 28 September 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 6, 10 and 11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-9 and 12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                                    |                                                                             |
|----------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____                                                |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>4/15/04</u> .                                                             | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Specification***

The disclosure is objected to because of the following informalities: On page 1, line 6 the Provisional Patent Application "60,518,782" was not inserted into the text.

Appropriate correction is required.

### ***Election/Restrictions***

Applicant's election of Species A (Figure 1A and 1B) in the reply filed on 9/28/2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). However claim 6 reads on Species E (Figures 5A and 5B), claim 10 reads on Species D (Figures 4A and 4B), and claim 11 reads on both Species D and E therefore claims 6, 10, and 11 will not be considered.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 7-9, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Otti (1,324,515).

Regarding claim 1 and 9, Otti discloses a backpressure regulator (2) comprising a hinged arm (9) having a closed position and a movable stop (11) shaped to cover a port (Figure 2) connected to a pressurized conduit (7) the stop being held by a retainer

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(threaded portion) attached to the arm, and the stop being positioned adjacent to the port when the arm is in the closed position, wherein the arm is away from the closed position when the pressure in the conduit exceeds a set point, and the arm is in the closed position when the pressure in the conduit is less than the set point (Ins. 39-93).

Regarding claim 2, Otti discloses a counter mass (12) adjustably attached to the arm and the set point is determined by the position of the counter mass relative to the arm (Ins. 64-73).

Regarding claim 7, Otti discloses the movable stop is substantially ball shaped as seen in Figure 1 and 2.

Regarding claim 8, the claim recites intended use language "the regulator is utilized in a vapor compression distillation system", this does not carry any patentable weight. The prior art of Otti can perform the intended function addressed in claim 8.

Regarding claim 12, Otti discloses the vessel includes a drain (5) as seen in Figure 1 and 2.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Otti.

Regarding claim 4 and 5, Otti discloses all the features of the claimed invention except that a lowest set point is substantially less than or equal to 10 psig and that a highest set point is substantially greater than or equal to 17 psig. However, to employ an operating range operable between a "lowest set point is substantially less than or equal to 10 psig and that a highest set point is substantially greater than or equal to 17 psig" is considered to be an obvious design expedient over the adjustable ball 12 and the gradation markings on the pivot arm 10 of Otti which provide no new and/or unexpected results nor solves any stated problem. That is, there is no criticality associated with the recited operating characteristics providing any new and/or unexpected results over the adjustability feature in Otti.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hall (327,875), Erwood (388,654), Kutzner et al. (4,384,672), and Sherowski (5,740,834) are additional examples of adjustably weighted check valves.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Craig M. Schneider whose telephone number is (571) 272-3607. The examiner can normally be reached on M-F 8:30 -5:00.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Blau Stephen can be reached on (571) 272-4406. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CMS  
October 18, 2005

  
Craig Schneider  
Patent Examiner  
Art Unit 3753

  
**STEPHEN BLAU**  
**PRIMARY EXAMINER**

Stephen Blau  
Primary Examiner